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ARIZONA CORPORATION COMMISSION
DEPARTMENT OF REVENUE

1 **LEWIS**
2 **AND**
3 **ROCA**
4 **LLP**
5 **LAWYERS**

6
7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

8 **WILLIAM A. MUNDELL**
9 **Chairman**

10 **JAMES M. IRVIN**
11 **Commissioner**

12 **MARC SPITZER**
13 **Commissioner**

Arizona Corporation Commission

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14 **IN THE MATTER OF U S WEST**
15 **COMMUNICATIONS, INC.'S**
16 **COMPLIANCE WITH § 271 OF THE**
17 **TELECOMMUNICATIONS ACT OF**
18 **1996**

Docket No. T-00000A-97-0238

19 **WORLDCOM, INC.'S BRIEF ON CNAM ISSUES**

20
21 Qwest must provide the CNAM database on a "batch" basis in order to comply with
22 the federal non-discrimination provisions of the federal Telecommunications Act of 1996
23 (the "Act"). The CNAM database allows CLECs to secure the listed name information
24 associated with the requested telephone number in order to provide Caller ID services to
25 their customers. The CNAM database allows the called customer premises equipment,
26

1 connecting to a switching system via a conventional line, to receive a calling party's name
2 and the date and time of the call during the first silent interval of the ringing cycle.
3 Currently, as a call to a CLEC's customer reaches the CLEC's terminating switch, a Caller
4 ID request is routed through the network to Qwest's or the CLEC's own CNAM database
5 holding the "name information" to be displayed on the customer's terminating premises
6 equipment. The CNAM database is identified by the FCC as a call-related database to
7 which ILECs must provide to CLEC's as unbundled network elements ("UNEs") pursuant
8 to Section 251(c)(3). This section of the Act requires ILECs such as Qwest to provide
9 "non-discriminatory access" to UNEs at total element long-run incremental cost
10 ("TELRIC") rates.
11

12 Because CNAM is a UNE, WorldCom has requested that Qwest's CNAM database
13 be made available to CLECs on a batch basis or download basis instead of the restrictive,
14 per query basis because per query access is too restrictive and is discriminatory where the
15 means for provisioning download access to the database currently exist. Limiting
16 WorldCom to per query access of the database, under these circumstances is
17 discriminatory for the following reasons:
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- 21 1. Download access to the CNAM database is technically feasible.
- 22 2. Provision of CNAM on a batch basis is in the public interest because it will
23 make competitors more efficient and encourage development of new, innovative services.
- 24 3. Qwest's arguments against providing CNAM on a batch basis are without
25 merit. Neither the federal Act's privacy requirements nor the FCC UNE rules prohibit a
26

1 state commission from ordering CNAM on a batch basis; and the purported "other"
2 sources for CNAM information are not complete or comparable to the Qwest CNAM
3 database.

4
5 **I. FAILURE TO PROVIDE CNAM ON A BATCH BASIS VIOLATES THE**
6 **ANTI-DISCRIMINATION PROVISIONS OF THE ACT**

7 In the Act, Congress mandated that ILECs have a duty to provide any requesting
8 carrier non-discriminatory access to network elements on an unbundled basis at any
9 technically feasible point on rates, terms, and conditions that are just, reasonable, and non-
10 discriminatory. Section 51.319(e)(2)(A) of the FCC's rules also requires that ILECs
11 provide non-discriminatory access to all call-related databases, such as CNAM, as UNEs.
12 47 C.F.R. §51.319(e)(2)(A). The "non-discriminatory" requirement with respect to call-
13 related databases means that Qwest has a duty to provide access to the databases in at least
14 the same manner that Qwest provides it to itself and to other carriers. The FCC has stated
15 repeatedly that any standard that would allow an ILEC to provide access to any competitor
16 that is inferior to that enjoyed by the ILEC itself is inconsistent with Congress' objective
17 of establishing competition in all telecommunications markets. *Local Competition Order*,
18 ¶¶ 100-105. This means not only that Qwest is obligated to treat all carriers the same, but
19 must provide those carriers with the same non-discriminatory access to these databases
20 that it provides itself in order to level the playing field with respect to providing competing
21 services to customers in Arizona. The access to the CNAM database WorldCom seeks
22 would permit it to provide Caller ID service to its customers with the same level of
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1 efficiency as Qwest. While the FCC currently requires only per query access to the
2 database, because download access is now technically feasible and for the reasons set forth
3 below, Qwest should be required to allow CLECs the more robust download access to the
4 database.
5

6 An analogy can be made between access to the CNAM database and the directory
7 assistance listing ("DAL") database which is used to provision directory assistance
8 services. CLECs were originally restricted to per query access to the ILEC's DAL
9 databases in much the same manner as they are now with the CNAM database. With
10 respect to DAL databases, the FCC specifically found that "LECs must transfer directory
11 assistance databases in readily accessible electronic, magnetic tape, or other format
12 specified by the requesting LECs, promptly on request . . ." *In the Matters of*
13 *Implementation of the Telecommunications Act of 1996, Telecommunications Carriers'*
14 *Use of Customer Proprietary Network Information and Other Customer Information,*
15 *Implementation of the Local Competition Provisions of the Telecommunications Act of*
16 *1996, Provision of Directory Listing Information, Third Report and Order in CC Docket*
17 *No. 96-115, Second Order on Reconsideration in CC Docket No. 96-98, and Notice of*
18 *Proposed Rulemaking in CC Docket No. 99-273, rel. September 9, 1999 (1999 Directory*
19 *Listing Order)* at ¶153. In that Order, the FCC specifically concluded that LECs may not
20 restrict competitive access to the DAL database by restricting access to per-query access
21 only:
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1 Although some competing providers may only want per-query access
2 to the providing LEC's directory assistance database, **per-query access**
3 **does not constitute equal access** for a competing provider that wants to
4 provide directory assistance from its own platform. With only per-query
5 access to the providing LECs database, new entrants would incur the
6 additional time and expense that would arise from having to take the data
7 from the providing LEC's database on a query-by-query basis then
8 entering the data into its own database in a single transaction. *** Such
9 extra costs and the inability to offer comparable services would render
10 the access discriminatory.

11 *1999 Directory Listing Order, ¶ 152 (emphasis added).*

12 Similarly, the CNAM database is also a call-related database and competitors'
13 access to this database should not be limited to a per-query or per-dip basis only. To allow
14 such a restriction to stand allows Qwest to discriminate against competing carriers through
15 limited access to the CNAM database. Moreover, limiting WorldCom to per-query or dip
16 access prevents WorldCom from controlling the service quality, management of the
17 database, or from adding new features, thereby allowing only the provision of inferior
18 service.

19 Offering the CNAM database on a batch basis will allow access in the same manner
20 used by Qwest. On the other hand, limiting access to a per query basis discriminates
21 against WorldCom and other CLECs by giving Qwest an unfair advantage. It prevents
22 CLECs from controlling the service quality and management of the database and restricts
23 WorldCom's ability to offer other service offerings that will enable it to compete
24 effectively with Qwest in the provision of this UNE. If WorldCom maintains its own
25 database via global access to Qwest's database, a lengthy step in the process would be
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1 eliminated, allowing WorldCom to provide service at least as good as Qwest provides for
2 itself. Thus, by enjoining superior access to its CNAM database, Qwest limits WorldCom
3 to an inferior service it can provide more efficiently, quickly and cheaply. Transcript, pp.
4 10: 23-25; 82-83 and 96-99.¹

6 The Georgia Commission found that: "The evidence supports the conclusion that
7 MCIW would be able to provide better service if BellSouth provided CNAM via
8 electronic download. Since BellSouth does not have to experience the delay that the 'dip
9 by dip' method would impose on MCIW, the dip by dip method cannot be said to be non-
10 discriminatory." WorldCom Hearing Exhibit W-7.5, p. 9.

12 A. **It is Technically Feasible to Provide the CNAM Database on a Batch**
13 **Basis**

14 At the conclusion of the January 10, 2002 workshop on CNAM information, all
15 parties concluded that provision of the CNAM database in its entirety is technically
16 feasible. Transcript, pp. 71-72, 76-77 and 79. Technical feasibility is also demonstrated by
17 the approval of download access to CNAM in Michigan, Georgia and Tennessee.
18 WorldCom Hearing Exhibits W-7.1 through W-7.6.

20 The Michigan Public Service Commission found that "... the CLECs should have
21 access to the database for use in providing service to their customers. There is no apparent
22 reason for Ameritech Michigan not to implement that proposal." WorldCom Hearing
23 Exhibit W-7.1; March 7, 2001 Order, p. 21.

25
26 ¹ Transcript means Reporter's Transcript of Proceedings of January 10, 2002.

1 Although the FCC's Rule 51.319 does not require more than per-query access to
2 call-related databases, this requirement is merely a baseline where direct access to the
3 database is not possible. If one looks at the FCC's conclusions in the *Local Competition*
4 *First Report & Order*, upon which the rule is based, however, it becomes obvious that
5 while the FCC considered allowing direct access to call-related databases, it found that
6 such access was not technically feasible at that time:

8 We conclude that it is not technically feasible to unbundle the SCP
9 from its associated STP. We note that the overwhelming majority
10 of commenters contend that it is not technically feasible to access
11 call-related databases in a manner other than by connection at the
12 STP directly linked to the call-related database. Parties argue that
13 the STP is designed to provide mediation and screening functions
14 for the SS7 network that are not performed at the switch or database.
15 We, therefore, emphasize that access to call-related databases must
16 be provided through interconnection at the STP and that we do not
17 require direct access to call-related databases.

18 *Local Competition First Report and Order*, ¶ 485.

19 Thus, the FCC's conclusions on direct access were clearly subject to reconsideration if
20 direct access to certain databases became technically feasible.

21 As demonstrated in the workshop, the database can be made available by download
22 of the information with updates to the database on a daily or even hourly basis in the same
23 manner that WorldCom uses to populate and update its DAL database. Furthermore,
24 access to the database via connection at the STP is not necessary because the information
25 service can be delivered to WorldCom's Arizona subscribers over WorldCom's own SS7
26 network without having to access Qwest's network.

1 **B. Provision Of CNAM On A Batch Basis Is In The Public Interest**

2 Purchasing CNAM on a batch basis is valuable for several reasons. First, CLECs
3 who operate their own CNAM database are not restricted to the exact same service and
4 process as offered and used by Qwest, thus allowing the potential for development for
5 innovative services. Transcript, pp. 13-14, 16-17 and 40. Bulk access to the CNAM
6 database allows CLECs to structure their databases to suit their customers' needs as
7 contemplated by the Act. The query only access proposed by Qwest makes CLECs
8 dependent on Qwest's systems and prevents CLECs from structuring their own calling
9 name databases to provide efficient, equal and quality service to their customers.
10

11 The provision of CNAM on a batch basis will also make competitors more efficient
12 and cost effective. First of all, CLECs will not have to use multiple "dips" for the same
13 number. Transcript, pp. 109-110 and 112. The cost of obtaining the full contents of the
14 database, as a UNE at TELRIC prices and maintaining their own database, is more
15 economical than requiring CLECs to pay Qwest on a per dip basis. Second, CLECs will
16 save money because they will not have as much need to pay for links to the Qwest STP.
17 Transcript, pp. 72-73. The third efficiency results from the time savings of not having to
18 route through a Qwest query system to receive information as opposed to accessing
19 information directly through the CLEC's own database. Under Qwest's per query or "dip"
20 proposal, WorldCom must first determine which LEC owns the number, then route the call
21 out to that LEC and back to make the "dip." Requiring WorldCom to dip Qwest's
22 database rather than access its own CNAM database also forces WorldCom to incur
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1 development costs associated with creating a complex routing scheme within its network.
2 Since Qwest already has its own database, it does not incur the same cost associated with
3 implementing and maintaining a routing scheme.
4

5 Moreover, the cost savings realized by download access to the database far
6 outweigh the costs in developing an internal database. This fact is obvious considering the
7 fact that many CLEC's already self-provision directory assistance by obtaining access to
8 Qwest's DAL database rather than "dipping" Qwest's database for each listing. While not
9 all CLECs chose to download the DAL database from Qwest, many CLECs such as
10 WorldCom have found that download access is more cost effective than getting access to
11 the information through per-query access.
12

13 The Tennessee Regulatory Authority recognized the public interest aspect of
14 allowing CNAM on a batch basis when its Director Malone said: "... We should require
15 BellSouth to provide the electronic download requested, that being calling name database
16 to WorldCom, ... the reason being that I think requiring BellSouth to act in this fashion is
17 consistent with the [federal telecommunications] Act and it also serves to place the
18 competitors in the same access to information as BellSouth is and puts them on the same
19 parity position." WorldCom Hearing Exhibit W-7.4; December 18, 2001 Excerpt of
20 Director's Conference, pp. 8-9.
21

22
23 **II. QWEST'S ARGUMENTS AGAINST PROVIDING CNAM ON A BATCH**
24 **BASIS ARE WITHOUT MERIT**

25 Qwest argues that it cannot provide the CNAM on a batch basis because of privacy
26

1 concerns of Section 222 of the Act. However, all telecommunication providers, including
2 WorldCom, must comply with the confidentiality provisions of Section 222. Transcript,
3 pp. 49, 64, 67, 91 and 106-107. Qwest's argument presumes that WorldCom would
4 violate Section 222 of the Act. Such a presumption is not supported by any evidence nor
5 is there any basis for such a presumption or assumption.
6

7 The only data that is sensitive for a service like Caller ID are the non-published
8 numbers of those customers that are unlisted. As stated in the testimony, however, Qwest
9 blocks this information at the switch regardless of whether WorldCom or Qwest would
10 process the call. Moreover, Qwest customers have the option to institute name blocking
11 and such blocking information is included in the privacy indicator that would be included
12 in the updates WorldCom would receive from Qwest for the CNAM. Lastly, customers
13 always have the option of blocking their name by dialing "*67" before each call. The
14 point is that WorldCom would not handle this information any differently than SWBT
15 presently does.
16
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18 Secondly, Qwest argues that the FCC does not require ILECs to provide CNAM on
19 a batch basis. For purposes of this proceeding, the key point is that the FCC rules do not
20 prohibit states from ordering CNAM on a batch basis. In fact, Michigan, Tennessee and
21 Georgia have done so. *See* WorldCom Hearing Exhibits W-7.1 – W-7.6. Nowhere in
22 FCC Rule 51.319 does the FCC limit access to only that which can be provided by means
23 of the Qwest signaling network. Qwest's position in this regard appears to be based on an
24 assumption that the UNE is merely the access to the database, rather than the database
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26

1 itself. According to Qwest, the *Local Competition First Report and Order* require per
2 query access to call-related databases through the STP of the SS7 network and that this
3 access to the databases is the UNE, not the information contained in the databases. Qwest
4 has zeroed in on the phrase “for the purpose of switch query and database response
5 through the SS7 network.” Qwest’s reliance on this phrase, however, cannot support a
6 finding that the UNE in question is simply a dip or query of the database. Notwith-
7 standing the fact that download access to the CNAM database is technically feasible, the
8 FCC quite clearly and repeatedly identifies call-related **databases** as UNEs. Moreover,
9 such a narrow reading of the FCC’s Rules ignores the Act’s very definition of a “network
10 element” which specifically includes databases:
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13 NETWORK ELEMENT. – The term “network element” means a facility
14 or equipment used in the provision of a telecommunications service. Such
15 term also includes features, functions, and capabilities that are provided by
16 means of such facility or equipment, including subscriber numbers, **databases**,
17 signaling systems, and information sufficient for billing and collection or
18 used in the transmission, routing, or other provision of a telecommunications
19 service.

20 47 USC § 153 (29) (*emphasis added*).

21 If a network element is identified as the database, then an unbundled network
22 element surely cannot merely mean access alone. Qwest is confusing its obligation to
23 provide access to the UNE with the UNE itself. Under 47 CFR § 51.319(e)(2), WorldCom
24 is entitled to non-discriminatory unbundled access to the **information** contained in
25 SWBT’s databases that is used in the billing and collection, or the transmission, routing or
26 other provisions of a telecommunications service. The database is the information.

1 Moreover, the Michigan PSC has recently ruled on this very issue when they
2 ordered Ameritech to provision CNAM on a download basis as a UNE. In that Order, it
3 stated: "The Commission further rejects Ameritech Michigan's argument that the
4 unbundled element is only "access to" the database and not the database itself. In 47 CFR
5 §51.317(e)(2)(B), promulgated in the UNE Remand Order, the FCC refers to the ILEC's
6 "general duty to unbundle call-related databases." See, *In the matter, on the Commission's*
7 *own motion, to consider AMERITECH MICHIGAN's compliance with the competitive*
8 *checklist in Section 271 of the Federal Telecommunications Act of 1996*, Case No. U-
9 12320 at p. 18 (December 21, 2001). WorldCom Hearing Exhibit W-7.2.

12 Finally, Qwest alleged "other sources" for the CNAM data and that such services are
13 competitive. While it is true other companies such as Illuminet offer DNAM services,
14 these services get their information from other sources such as Qwest. Moreover, these
15 other companies are not bound by the same UNE obligations as Qwest and other ILECs.
16 Rather, they are simply an intermediary service that gets its information, on a per query
17 basis, from the Qwest database. They are not a substitute for batch access to Qwest's
18 CNAM database. Transcript, pp. 59-60, 69 and 99-101.

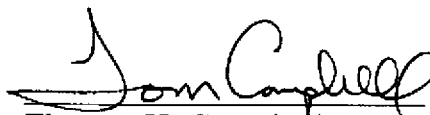
21 Qwest's CNAM database is not competitive since Qwest is the only entity in
22 Arizona with such a comprehensive database, because of its incumbent status, with
23 information on the majority of subscribers in Arizona. This is precisely why the FCC
24 identified call-related databases such as the CNAM database as UNEs.
25
26

1 **III. CONCLUSION**

2 Accordingly, for these reasons, WorldCom respectfully requests that the
3 Commission require Qwest to provide CNAM on a download basis.
4

5 RESPECTFULLY submitted this 25th day of January, 2002.

6 LEWIS AND ROCA LLP

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8 Thomas H. Campbell
9 40 N. Central Avenue
10 Phoenix, Arizona 85007
11 Telephone (602) 262-5723

12 – AND –

13 Thomas F. Dixon
14 WorldCom, Inc.
15 707 – 17th Street, #3900
16 Denver, Colorado 80202
17 Telephone: (303) 390-6206

18 Attorneys for WorldCom, Inc.

19 ORIGINAL and ten (10)
20 copies of the foregoing filed
21 this 25th day of January, 2002,
22 with:

23 Arizona Corporation Commission
24 Docket Control – Utilities Division
25 1200 W. Washington Street
26 Phoenix, Arizona 85007

1 COPY of the foregoing hand-
2 delivered this 25th day of January, 2002,
3 to:

3 Maureen Scott
4 Legal Division
5 Arizona Corporation Commission
6 1200 W. Washington Street
7 Phoenix, Arizona 85007

6 Jane Rodda, Administrative Law Judge
7 Arizona Corporation Commission
8 1200 W. Washington Street
9 Phoenix, Arizona 85007

8 Ernest Johnson, Director
9 Utilities Division
10 Arizona Corporation Commission
11 1200 W. Washington Street
12 Phoenix, Arizona 85007

11 COPY of the foregoing mailed
12 this 25th day of January, 2002, to:

13 Lyndon J. Godfrey
14 Vice President – Government Affairs
15 AT&T Communications of the
16 Mountain States
17 111 West Monroe, Suite 1201
18 Phoenix, Arizona 85003

16 Scott Wakefield
17 Residential Utility Consumer Office
18 2828 N. Central Avenue
19 Phoenix, Arizona 85004

19 Mark Dioguardi
20 Tiffany and Bosco PA
21 500 Dial Tower
22 1850 N. Central Avenue
23 Phoenix, Arizona 85004

22 Richard M. Rindler
23 Swidler & Berlin
24 3000 K. Street, N.W.
25 Suite 300
26 Washington, DC 20007

LEWIS
AND
ROCA
LLP
LAWYERS

- 1 Maureen Arnold
US West Communications, Inc.
2 3033 N. Third Street
Room 1010
3 Phoenix, Arizona 85012
- 4 Jeffrey W. Crockett
Snell & Wilmer
5 One Arizona Center
Phoenix, Arizona 85004-0001
- 6 Richard P. Kolb
7 Vice President – Regulatory Affairs
OnePoint Communications
8 Two Conway Park
150 Field Drive, Suite 300
9 Lake Forest, Illinois 60045
- 10 Andrew O. Isar
TRI
11 4312 92nd Avenue N.W.
Gig Harbor, Washington 98335
- 12 Eric S. Heath
13 Sprint Communications Company L.P.
100 Spear Street, Suite 930
14 San Francisco, CA 94105
- 15 Steven J. Duffy
Ridge & Isaacson P.C.
16 3101 N. Central Avenue
Suite 1090
17 Phoenix, Arizona 85012-1638
- 18 Timothy Berg
Fennemore, Craig, P.C.
19 3003 N. Central Avenue
Suite 2600
20 Phoenix, Arizona 85012-3913
- 21 Charles Steese
Qwest
22 1801 California Street, Ste. 5100
Denver, Colorado 80202
- 23 Joan S. Burke
24 Osborn & Maledon
2929 N. Central Avenue
25 21st Floor
Phoenix, Arizona 85067-6379
- 26

1 Richard S. Wolters
2 AT&T & TCG
3 1875 Lawrence Street
4 Suite 1575
5 Denver, Colorado 80202

6 Michael M. Grant
7 Todd C. Wiley
8 Gallagher & Kennedy
9 2575 E. Camelback Road
10 Phoenix, AZ 85016-4240

11 Raymond S. Heyman
12 Michael Patten
13 Roshka Heyman & DeWulf
14 Two Arizona Center
15 400 Fifth Street, Suite 1000
16 Phoenix, Arizona 85004

17 Diane Bacon, Legislative Director
18 Communications Workers of America
19 5818 North 7th Street
20 Suite 206
21 Phoenix, Arizona 85014-5811

22 Bradley Carroll, Esq.
23 Cox Arizona Telcom, L.L.C.
24 1550 West Deer Valley Road
25 Phoenix, Arizona 85027

26 Joyce Hundley
United States Department of Justice Antitrust Division
1401 H Street, N.W.
Suite 8000
Washington, D.C. 20530

Daniel Waggoner
Davis Wright Tremaine
2600 Century Square
15011 Fourth Avenue
Seattle, Washington 98101-1688

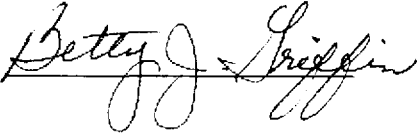
Alaine Miller
NextLink Communications, Inc.
500 108th Avenue NE, Suite 2200
Bellevue, Washington 98004

Mark N. Rogers
Excell Agent Services, LLC
2175 W. 14th Street
Tempe, Arizona 85281

1 Traci Grundon
2 Davis Wright Tremaine LLP
3 1300 S.W. Fifth Avenue
4 Portland, Oregon 97201
5
6 Mark P. Trinchero
7 Davis Wright Tremaine LLP
8 1300 S.W. Fifth Avenue, Suite 2300
9 Portland, Oregon 97201
10
11 Gena Doyscher
12 Global Crossing Local Services, Inc.
13 1221 Nicollet Mall
14 Minneapolis, Minnesota 55403-2420
15
16 Penny Bewick
17 New Edge Networks, Inc.
18 P.O. Box 5159
19 Vancouver, WA 98668
20
21 Jon Loehman
22 Managing Director-Regulatory
23 SBC Telecom, Inc.
24 5800 Northwest Parkway
25 Suite 135, Room I.S. 40
26 San Antonio, TX 78249
27
28 M. Andrew Andrade
29 5261 S. Quebec Street
30 Suite 150
31 Greenwood Village, CO 80111
32
33 Karen Clauson
34 Eschelon Telecom, Inc.
35 730 2nd Avenue South
36 Suite 1200
37 Minneapolis MN 55402
38
39 Megan Doberneck
40 Covad Communications Company
41 7901 Lowry Boulevard
42 Denver, CO 80230
43
44 Brian Thomas
45 Vice President Regulatory – West
46 Time Warner Telecom, Inc.
47 520 S.W. 6th Avenue
48 Suite 300
49 Portland, Oregon 97204
50

LEWIS
AND
ROCA
LLP
LAWYERS

1 Andrea P. Harris
2 Senior Manager, Regulatory
3 Allegiance Telecom, Inc. of Arizona
4 2101 Webster, Suite 1580
5 Oakland, CA 94612

6 
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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